

**Single Family Design Guidelines Update/  
Neighborhood Preservation Ordinance Update**

**ISSUE PAPER J**

**Triggers for Application Routing  
& Findings & Piece-Meal Development**

**Part I: ABR Purview, Existing Setting, Findings & Piecemeal Development**

The purpose of this issue paper is to:

1. **Review** the current Single-Family development application routing and triggers and summarize potential routing options to be outlined in Part II of this Issue Paper.
2. **Further refine** Floor to Lot Area Ratio regulation proposals.
3. **Revise Neighborhood Preservation Ordinance** Findings.
4. **Address** piecemeal development issues.
5. **Review** Story Pole Steering Subcommittee proposals.

The paper is organized into five major sections as follows:

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**Attachments**

1. Existing Design Review Routing for Single Family Projects
2. Pie Charts Illustrating Project Routing
3. ABR Guidelines Excerpt Describing Hearing Review Levels
4. Built Green Checklist Summary

## **A. ABR Purview and Routing Concepts**

Introduction

Existing Design Review Purview: Infill Areas

Existing ABR Purview: Hillside Design District

Review Levels

Summary of Options to be Explored in Part II of this Issue Paper

Potential ABR Case Overload

Potential Routing Options to Be Further Explored

Built Green Program

Initial Hillside Projects Routing Proposals

Special Hillside Routing Issue: Grading

Summary

### **Introduction**

The original Neighborhood Preservation Ordinance (NPO), adopted in 1992, established requirements for some categories of single family development projects to be reviewed by the Architectural Board of Review (ABR). When a project is required to be reviewed by either the Architectural Board of Review or the Historic Landmarks Commission, it is said to undergo “Design Review.” When the NPO was adopted, it was anticipated that the City would revisit the Ordinance to ensure that it was effective in addressing issues of neighborhood compatibility. This Issue Paper reviews the current set of single family project “triggers” which send a project to “Design Review.” Key questions which this Issue Paper explores are:

- Are the triggers sending the right types of projects to Design Review?
- Are there too many projects overall going to Design Review?
- Are there too few of certain types of projects going to Design Review?
- How can the routing system reward projects which follow “green building” techniques?

**Limited Resources.** Many feel that the types of projects reviewed by the Architectural Board of Review could be adjusted to address more projects of concern to the community, i.e. most two-story single family homes. However, all discussion of application re-routing takes place with a backdrop of limited Staff and ABR time and resources. ABR agendas have been impacted and over-full for some time, posing many issues. Applicants routinely must wait two to four weeks before being agendaized. Volunteer board members must endure very long meetings with many hours of hearing time, creating concerns regarding the ability to recruit ABR volunteers in the future.

**When Some Projects Receive Heightened Review, Other Projects Need to be Considered for Lowered Review.** Overall, there is a desire to focus available Design

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### Triggers for Application Routing

Review resources on larger and taller projects. Shifting focus to larger, taller projects requires a lessing of efforts in other areas. In effect, ideas to expand the ABR purview must be handled very carefully. Some projects currently within the ABR purview must be considered to be reclassified to Administrative Staff Review or Ministerial Building Permit only levels to “free up” ABR time. For example, this issue paper presents options for changing the review level for some minor one-story or sitework Hillside District projects so that perhaps more second story projects can be reviewed by the ABR.

**Green Building Incentives.** Regarding the last question related to green building techniques, there appears to be a growing interest in encouraging this building type in the City of Santa Barbara. Green building encompasses the following topics:

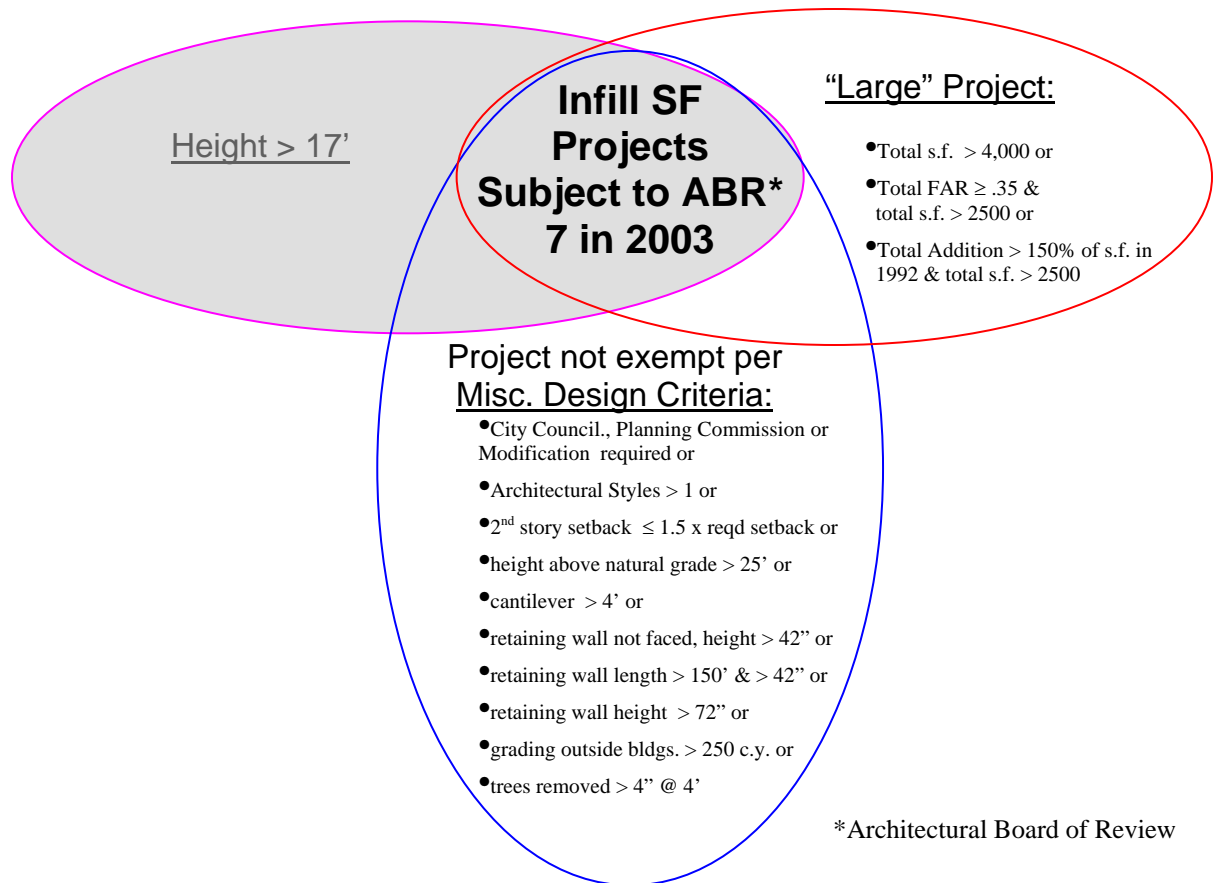
- Designing projects in response to site constraints
- Using “sustainable” building materials (ex. derived from renewable resources and low toxicity)
- Incorporating energy conserving features into a building
- Minimizing construction waste

Although the focus of this Single Family Design Guidelines/NPO Update is not on creating a Green Building Ordinance and guidelines, the update process is an opportunity for efficiently including some green building incentives through application routing and trigger mechanisms.

Single-family projects reviewed by the Architectural Board of Review typically have been referred to the ABR through Neighborhood Preservation Ordinance “triggers.” Following is some basic information regarding ABR Infill and Hillside Design District projects.

**Existing ABR Purview: Infill Projects**

Single-family home projects which trigger ABR review are generally two-story “large” homes which meet miscellaneous design criteria or are located in a Hillside Design District. The following diagram illustrates how a project must trigger height (“tall”) and size (“large”) criteria and not meet the miscellaneous design criteria exemption to be referred to the Architectural Board of Review:



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### **Triggers for Application Routing**

As diagrammed in the preceding chart, following are two examples of projects which would not have ABR triggered under the current NPO:

1. A 6,499 square foot one-story Infill home under 17' tall would not go to ABR because it does not meet the current first criteria of "Height > 17".

One-story projects, even when large, do not tend to cause as much concern in the community as two-story projects.

2. A 3,500 square foot 24' tall two-story home constituting more than 50% of an existing home size and a .45 FAR which meets the miscellaneous design criteria exemption would not go to ABR under the current NPO.

This second example seems to raise more concern in the community. Currently, the City uses a "Neighborhood Preservation Ordinance" checklist as a handout to the public at the Zoning Counter. Through a series of sixteen questions, single family home development applicants determine whether or not their project is subject to the Historic Landmarks Commission (HLC), ABR or Planning Commission. Question 13 consists of checking to see if a project proposal includes any of the "miscellaneous design criteria" listed in the bottom portion of the above diagram. If a project meets all of the miscellaneous exemption criteria, currently it is exempt from Design Review. Many members of the public have expressed concern regarding this "exemption" for miscellaneous design criteria. The reason for the concern is that even projects which meet the miscellaneous design exemption criteria can result in homes which are incompatibly taller and larger than other homes in the neighborhood.

General ABR Purview

All significant development projects require ministerial building permits. Data for building permits in the year 2003 indicates the following approximate statistics. Out of 3,384 total building permits in 2003:

- 2462 were not subject to Design Review because they did not include exterior multi-family or commercial alterations or did not include exterior alterations located in the Hillside Design District or the El Pueblo Viejo Districts.
- 79 home addition projects were subject to Design Review at the ABR per the NPO. Of those projects, 70 were located in the Hillside Design District & 9 were Infill area projects. Draft details regarding specific numbers and types of projects reviewed are provided in Attachment 1.
- 58 single family addition projects were subject to Design Review because there were two units proposed for a property, not because of the NPO (53 Infill & 5 Hillside).
- 12 new single family homes were subject to Design Review because they were part of a new subdivision, not because of the NPO.
- 9 single family homes were reviewed by the Historic Landmarks Commission because of their location in the El Pueblo Viejo Design District.
- 2 single family homes were reviewed by the ABR because they were located in the Mission Area Special Design District, per the NPO.

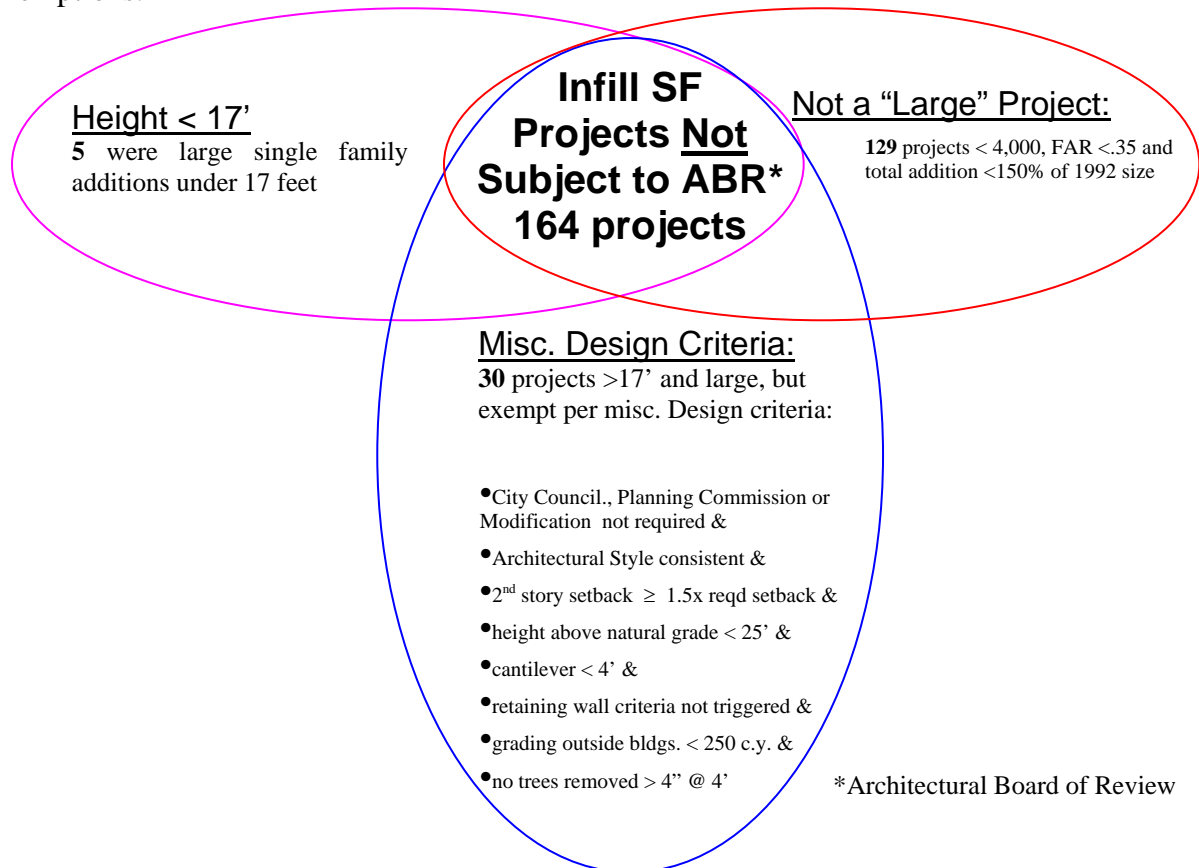
Two pie charts, Attachment 2, illustrate some approximate 2003 case statistics for single family home projects.

Infill Single Family Projects Exempt from Design Review

The following diagram illustrates the numbers of projects which have been exempted from the Design Review process depending on whether or not the project is not large enough, tall enough or triggers miscellaneous design criteria.

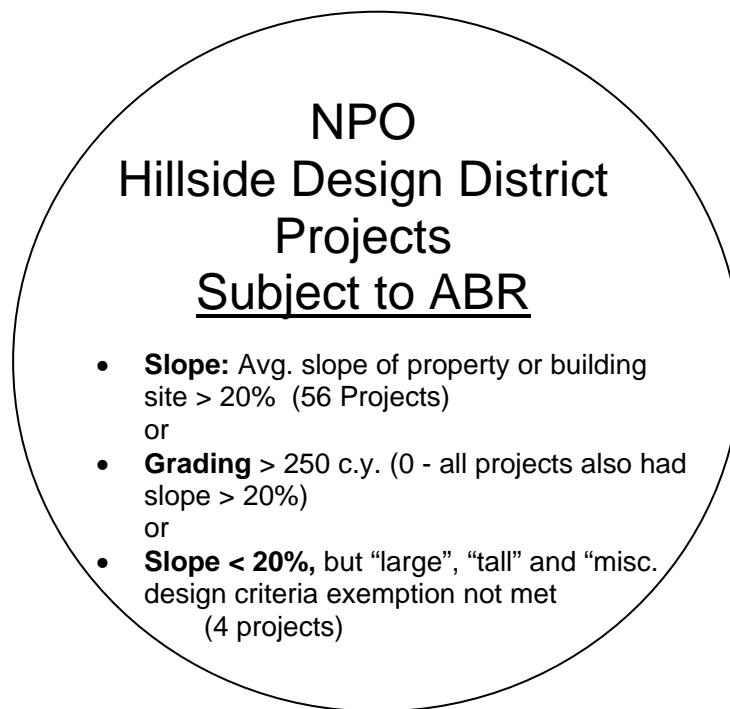
- The 7 Infill single family addition projects which were subject to ABR per the NPO, were subject to Design Review because they were > 17', "large" and did not meet the miscellaneous design criteria exemption.
- 164 Single family projects were not subject to ABR because they were neither over 17' or "large" projects ("large" is generally > .35 FAR or > 4,000 square feet)
- 5 single family projects were large, but not subject to ABR because they were under 17 feet
- 30 projects were greater than 17 feet and large, but were not subject to ABR because they did not trigger any miscellaneous design criteria

The following diagram illustrates the categories of single family addition exemptions:



**Existing ABR Purview: Hillside Design District Areas**

Unlike Infill areas, most single family Hillside projects which require building permits also undergo Design Review. Only Hillside projects on properties with an average property and project site slope of less than 20%, less than 250 cubic yards of grading, not large, not tall and which do not meet miscellaneous exemption design criteria are currently exempt from Design Review. In 2003, approximately 4 single family addition projects were exempt from Design Review because they were on properties or project sites with an average of less than a 20% slope in the Hillside Design District and were not classified as “large” and “tall” and not exempt under the “miscellaneous design criteria”.



**Review Levels**

The Architectural Board of Review has four different review levels, described in the ABR Guidelines, Attachment 3.

**Administrative.** A list of minor design alterations may be approved as a ministerial action by the Community Development Director (usually via appointed Design Review Staff). Reviewing Staff have the ability to refer any minor design alteration to the ABR if the alteration has the potential to have an adverse effect on the architectural integrity of the building, structure or surrounding property. Key to the Administrative review process are the standards. For example, Administrative Staff reviews of door changes for



compliance with the Americans with Disabilities Act may only be made if the following standards are met:

- Door and sidelight sash material match the existing material and are either wood or steel
- Where adjacent windows are “divided light” type, the new doors and sidelights shall also be divided to match existing
- In door pairs, both doors shall have the same width
- In doors with sidelights, both sidelights shall have the same width
- Doors and sidelights shall be placed symmetrically within architectural elements
- Door hardware must be appropriate to the architectural style of the building
- Changes in paving material shall match the existing material
- Installation of guard/hand rails shall be referred to the Consent Calendar

**Consent.** The Consent Calendar is meant to expedite the review of minor projects or the review of final project details. One ABR member who is assisted by Staff reviews the Calendar and makes a recommendation to the full ABR board to act on. The ABR may take an item off Consent to be considered by the Full ABR. (Approximately 36 NPO Hillside Design District projects in 2003, no Infill NPO projects.)

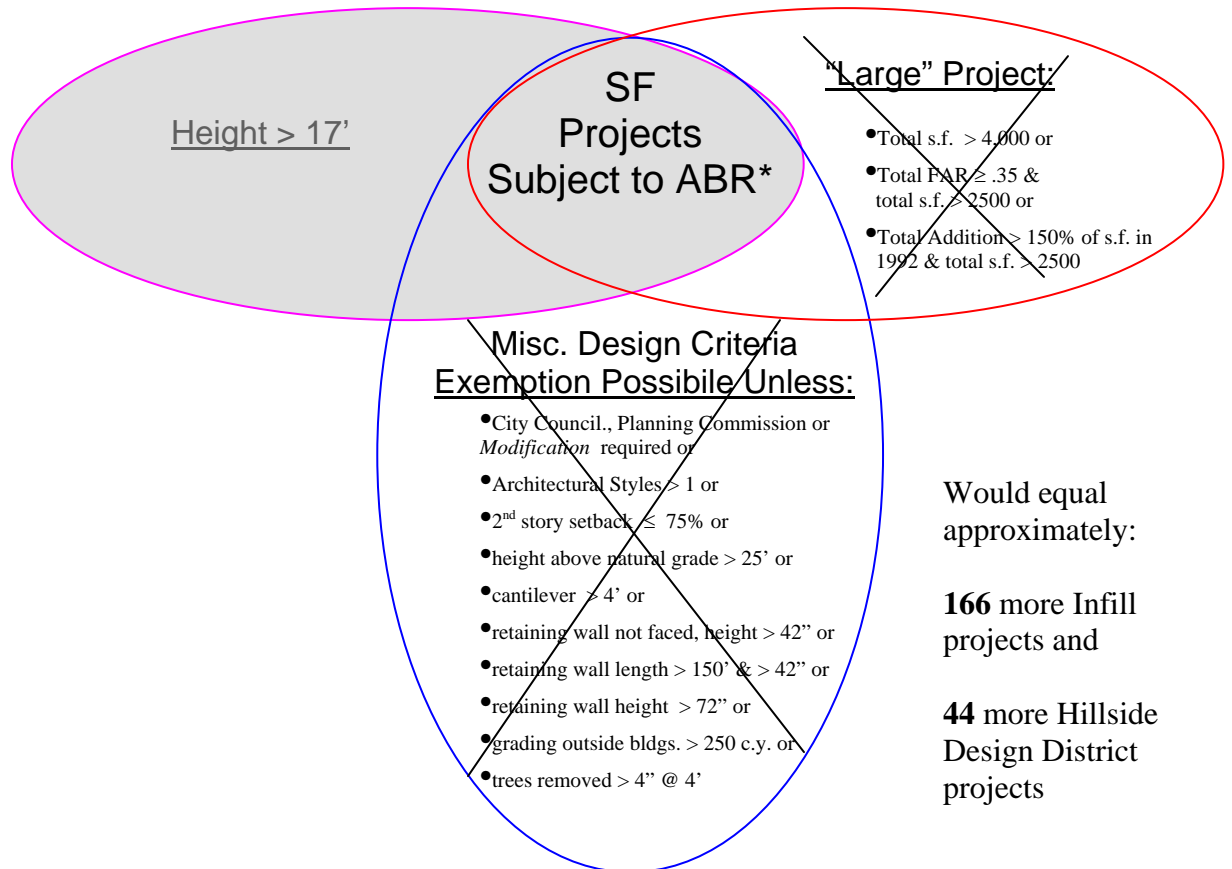
**Full Board.** A quorum of four members of the board of nine Architectural Board of Review members is required to review project plans at a minimum of three stages: Concept Review, Preliminary Review, and Final Review. (Approximately 60 NPO Hillside Design District projects in 2003, and 9 Infill NPO projects.)

**Planning Commission.** In rare cases of grading over 500 cubic yards and homes larger than 6,500 square feet, Planning Commission review is required. Before these Neighborhood Preservation Ordinance projects undergo Planning Commission review, the Architectural Board of Review first reviews the case. After the Planning Commission approves the project, it returns to the Architectural Board of Review for final aesthetic review and approval. (Approximately 4 to 6 NPO Hillside Design District cases per year.)

Each level of review listed above requires increasing amounts of Staff and ABR member time. Ministerial building permits are the least labor intensive and costly level of review as none of the above listed design review is required and Full Board is the most costly. The goal is to move less critical projects out of the Full Board realm to a lesser review category and to bring key projects, such as additional two-story projects up to the Full Board review level.

**Summary of Options to be Explored in Part II of this Issue Paper**

**Suggestion for Two-Story Review.** Neighborhood Visual Survey trends showed public preferences for one-story residences. The City maintains that second story residences, when well-designed, can be compatible in existing one-story neighborhoods. Design review board review of significant second story projects would help to ensure two-story projects are compatible with existing neighborhoods. The Steering Committee has expressed interest in having most second story additions reviewed by the ABR, regardless of whether or not a project would be exempt under current miscellaneous design criteria. This concept would basically eliminate the miscellaneous design criteria exception (NPO Checklist #13). Also, if all projects over 17' were to be reviewed, specifying a project size is also not necessary. This idea would be presented schematically as follows.



\*Architectural Board of Review

**Potential ABR Case Overload.** The problem with the above proposal is that it would add approximately 140 cases to the Design Review caseload which were previously reviewed at only a ministerial building permit level. Therefore, for Part II of this issue paper, Staff will brainstorm options to provide some design review for most second story projects without overloading the full board Architectural Board of Review. Staff is likely to use the following assumptions in creating options:

- Small and medium sized second stories are not usually as impactful to neighborhoods as large second story additions.
- Typical master bedroom or two-bedroom second story additions would usually qualify as “small” and “medium” sized projects.
- A “Small” second story addition would be up to 500 square feet – to accommodate a typical second story master bedroom project.
- A “Medium” second story addition would be 500 to 575 square feet – to accommodate a typical second story two-bedroom project.
- If possible, projects added to the Architectural Board of Review should be balanced with projects subtracted from the Architectural Board of Review’s current purview.
- For any projects routed to the Administrative Staff Review level, Staff would have the ability to refer any projects which do not comply with the Single Family Design Guidelines up to the Consent Calendar or Full Board. Also, standards for approval at the Administrative Staff level of review would be very clear.
- One-story hillside projects < 500 square feet which are not highly visible from public viewing locations could have a lesser design review than the current Full Board review routing.
- New FAR requirements will discourage some of the larger types of two-story additions which have been applied for in the past.
- Incentives for Green Building concept use should be included in the new routing system.
- Current practice whereby projects which require a City Council approval or Coastal Development Permit are subject to Design Review should be maintained.
- The Modification Hearing Officer should have the ability to require conditions for for Design Review.

**Preview of Potential New Case Routing Statistics.** Following is an initial look at some potential proposals to be further detailed in Part II of this Issue Paper. This initial listing of potential proposals shows a potentially unworkable imbalance of new projects to be reviewed by the full ABR.

Projects potentially to be proposed for removal from the full ABR

- One-story hillside projects < 500 square feet (less than 20 cases removed)

Projects potentially to be proposed for removal from ABR Consent Calendar

Hillside Design District alteration and site improvement projects if clear standards are written for Staff approval of these types of projects and Staff may refer any projects inconsistent with guidelines up to the ABR. (approximately 30 cases)

Projects potentially proposed for addition to the full ABR

- Additional Hillside Design District parcels: approx. 100 additional parcels added, estimate of additional case impact is pending further research
- Additional 2-story projects (up to approx. 200 additional cases depending on routing incentives)
- One-Story homes over 4,000 square feet (approx. 10 – 20 additional cases)
- Additional Coastal Development Permit and Modification Projects: (approx. 10 – 20 additional cases)

From the preceding numbers, it can be seen that the 14 minor Hillside addition cases potentially proposed for subtraction from the Full Board does not come close to balancing out a potential of up to 100 more projects at the Full Board. Therefore, in Part II of this issue paper, Staff plans to provide options to route some of the small and medium second story projects differently than the other second story projects. Perhaps the routing will be to an administrative or a consent level and will be based on FAR, height or setback characteristics. Another incentive option is to tie the routing to Built-Green incentives, described below.

At the last Steering Committee meeting, Bruce Bartlett also suggested a concept of routing projects through the ABR review process depending on how close they are to the maximum FAR. For example, perhaps projects less than 70% of the Max. FAR would not be subject to Design Review. Staff will further explore this concept in Part II of this issue paper. A variation of this concept might be that if a home is less than a .28 FAR and also represents less than a 50% addition over the 1992 size of the home, Design Review would not be required.

**Built Green Program.** The Built Green Program was completed by the Santa Barbara Contractor's Association in the Fall of 2004. The program is voluntary and participants in the program self-monitor their projects. A binder of almost 250 ways to earn "points" in the categories of Site & Water, Energy Efficiency, Health & Indoor Air Quality and Materials Efficiency is provided to Green Built members (see Attachment 4, "Built Green

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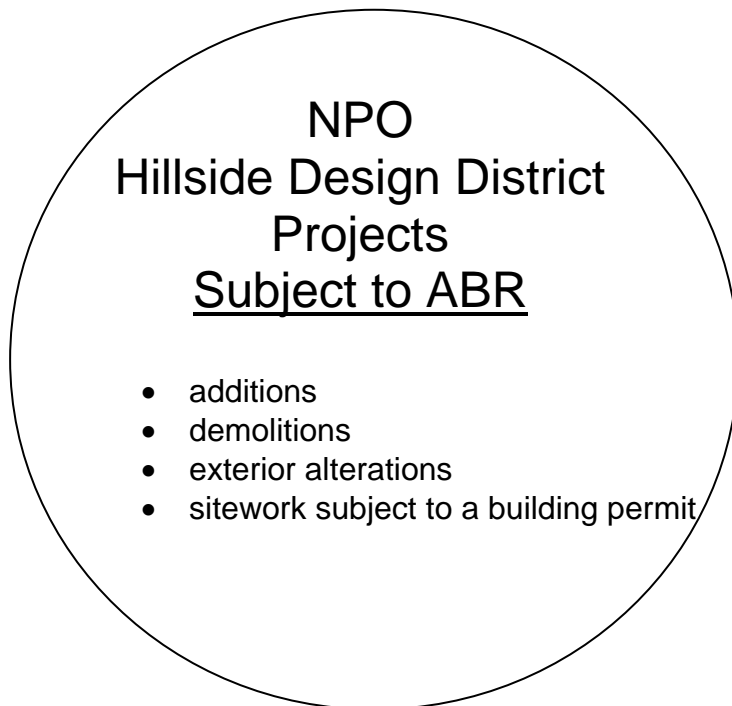
Checklist Summary”). One star programs must earn 30 points and three star projects (the highest star rating) must earn 160 points for additions.

The Contractor’s Association has requested that the City provide a “Green Stamp” at the building counter for project participating in the Built Green program. These projects would call out the built-green components on the plans. The Contractor’s Association would like the City building inspector to verify built green components at the same time that they verify actual construction compliance with building plans. By the time the NPO Update is adopted in early 2006, it is expected that the Building & Safety Department will have implemented the “Green Stamp” and an inspection program.

**Initial Hillside Projects Routing Proposals.** During the Hillside Issues discussions, revised Hillside Design District (HDD) purview and boundaries were discussed. At least the following two changes to HDD routing are proposed:

1. Adjusting the Hillside Design District boundaries to include parcels known to be over 20% slope with smooth boundary edges will encompass up to 100 more projects than were included previously.
2. The Steering Committee has suggested the possibility of routing all similar single family projects within the Hillside Design District in the manner same regardless of slope. Projects on parcels with slopes less than 20% would no longer be excluded from Design Review. In 2003, 44 projects in the Hillside Design District were exempted from ABR review because the slope of the property was less than 20% and the projects were not large, tall and did not meet the miscellaneous design criteria exemption.

In effect the new categories of projects subject to Design Review in the Hillside Design District would be diagrammed as follows. However, Hillside projects subject to Design Review may have different levels of design review required, as will be explored in Part II of this Issue Paper.



**Special Hillside Routing Issue: Grading.** During the Hillside Issues discussions, the Steering Committee agreed to explore the possibility of eliminating referral of projects over 500 cubic yards of grading to the Planning Commission. This will eliminate up to four to six projects from Planning Commission review per year. However, some are concerned that new findings and guidelines may not be strong enough to deter applicants from proposing inappropriate projects. When the Architectural Board of Review is faced with applicants who choose not to respond to Board comments to reduce grading, continuation or denial of the project would be required. A similar issue to this issue is discussed in Issue Paper D Follow-Up Paper II on page 10.

**Summary.** Overall, Staff plans to create options in Part II which reach the goal of optimizing ABR review of projects which cause the most concern in the community, recognizing limited ABR and Staff review resources. Options in Part II of this issue paper will be aimed at balancing proposed additional projects for ABR review with ways to reduce project review levels for some project types currently reviewed by the ABR.

## **B. Floor To Lot Area Ratio Draft Regulations Refinement**

Since the Issue Paper D follow-up discussion II on April 22nd, Staff has modified the draft proposed floor to lot area ratio table to incorporate Steering Committee's following suggestions.

- Change the garage allowance to 500 sq. ft. for lots smaller than 20,000 sq. ft.
- Only apply the FAR table regulations to two-story homes.
- Use Table #3's rough "maximum" square footage and FAR numbers, but recalculate to avoid "jumps" in square footage by using a formula method.
- Add a garage allowance of 750 sq. ft. for lots greater than 20,000 sq. ft.
- Rather than having a "Max." and a "Max. + bonus," trigger additional review for homes larger than 85% of the maximum FAR square footage.
- Lots over 15,000 sq. ft. have FAR guidelines only.

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**Triggers for Application Routing**

**Draft Proposed FAR Chart (Iteration #7)**

To determine draft maximum home size:

<b>Lot Size</b>	<b>Max. Home Size (in sq. ft.)</b>
< 10000 sq. ft.	1200 + (.25 * Lot size in sq. ft. )
10001 - 15000 sq. ft.	2500 + (.125 * Lot size in sq. ft. )
> 15000 sq. ft.	4150 + (.013 * Lot size in sq. ft.)

<b>Garage Allowance</b>	
<i>Lot Size</i>	<i>Allowance</i>
< 20001	500
> 20000	750*

<b>Santa Barbara Draft Proposal</b>				
<i>Lot Size</i>	<i>85% of Max. Home Size</i>	<i>Max. Home Size excl. garage</i>	<i>Max. Home Size incl. garage</i>	<i>Max. FAR excl. garage</i>
4000	1870	1700	2200	0.43
5000	2083	1950	2450	0.39
6000	2295	2200	2700	0.37
7000	2508	2450	2950	0.35
8000	2720	2700	3200	0.34
9000	2933	2950	3450	0.33
10000	3188	3250	3750	0.33
11000	3294	3375	3875	0.31
12000	3400	3500	4000	0.29
13000	3506	3625	4125	0.28
14000	3613	3750	4250	0.27
15000	3655	3800	4300	0.25
20000	-	3660	4410	0.18
1/2 acre	-	3683	4433	0.20
3/4 acres	-	3825	4575	0.14
1 acre	-	3966	4716	0.09
1.5 acres	-	4249	4999	0.07
2 acres	-	4533	5283	0.05
2.5 acres	-	4816	5566	0.04
3 acres	-	5099	5849	0.04
3.5 acres	-	5382	6132	0.04
4 acres	-	5665	6415	0.03
4.5 acres	-	5948	6698	0.03
5 acres	-	6231	6981	0.03
5.5 acres	-	6515	7265	0.03
6 acres	-	6798	7548	0.03

= Guidelines only

\*where zone district allows: Municipal Code 28.87.160.4



Staff does not recommend incorporating the garage square footage into the actual FAR calculations as suggested by the Steering Committee due to workload impacts this change would create. Staff has added a column to show the total allowed square footage including the garage on the table. Staff recommends having the maximum FAR number, however remain the same on the table. If Staff were to change the maximum FAR number to reflect the garage inclusion the following impacts may occur:

- The FAR numbers would be less “precise” in measuring FAR, extending the maximum FAR to three decimal places may be necessary. A three decimal place FAR may be more confusing and cumbersome to use for both the public and permit processing staff than a two decimal place FAR.
- Explaining the progression in FAR numbers through Tables 1 through 6 to the other hearing bodies would be difficult without recalculating each of those tables. If the tables are recalculated, then public comment letters received and notes regarding verbal public comment at Steering Committee meetings would lose meaning for subsequent hearing bodies.
- The FAR “posters” of photographs would become less precise with the new FAR calculation method because garage square footage is unknown for most of the example photographs used. Also, a large amount of Staff time would be needed to move the photos to reflect the new FAR calculations. The posters have been recognized as very helpful in drafting maximum FAR proposals.

## **C. Findings Adjustments**

### **Existing Findings**

The following existing findings for the Neighborhood Preservation Ordinance appear to be appropriate for achieving the community’s goals of compatibly designed single family housing. One suggestion regarding findings is to give each finding a subtitle to make them easier to refer to in minutes and during hearings as follows. New proposed subtitles are indicated in bold at the beginning of each finding.

1. Health, Safety & Welfare: The public health, safety and welfare will be protected.
2. Grading & Development: The grading and development will be appropriate to the site, have been designed to avoid visible scarring, and will not significantly modify the natural topography of the site or the natural appearance of any ridgeline or hillside.
3. Trees: The project will, to the maximum extent feasible, preserve and protect any native or mature trees with a minimum trunk diameter of four inches (4") measured four feet (4') from the base of the trunk. Any specimen tree, skyline tree, or oak tree with a diameter of four inches (4") or more at four feet (4') above

natural grade that must be removed will be replaced on a one-to-one basis, at a minimum. Designated Specimen, Historic and Landmark trees will not be removed.

4. **Consistency & Appearance:** The development will be consistent with the scenic character of the City and will enhance the appearance of the neighborhood.
5. **Compatibility:** The development will be compatible with the neighborhood, and its size, bulk, and scale will be appropriate to the site and neighborhood.
6. **Public Views:** The development will preserve significant public scenic views of and from the hillside.

It appears that quantitative regulations and more specific guidelines have been the “missing tools” for creating a more effective ABR findings process. Proposed FAR regulations and more specific guidelines with additional illustrative photographs and drawings throughout the Single Family Design Guidelines should meet these needs.

### **Revised Findings Proposal**

For Hillside areas specifically, new findings were discussed regarding grading and fitting development to a site. Additionally, findings for projects requesting bonus square footage were initially considered by the Steering Committee, but dropped because the Steering Committee agreed that too many findings would be likely to make the Design Review process less efficient. The additional Hillside Findings are also include in the below proposed revised findings set. The findings have also been rearranged to list findings applicable to both infill and hillside areas first, and findings applicable to the Hillside Design District only, second. The findings are also more consistently written in a combination of “present and future tense”, using phrases such as “the proposed development is...” rather than “the project has been designed...”. Present tense language is more efficient, and should more effectively focus Design Review Board decisions.

### **Infill and Hillside Findings**

1. **Consistency & Appearance:** The proposed development will be consistent with the scenic character of the City and will enhance the appearance of the neighborhood.
2. **Compatibility:** The proposed development will be compatible with the neighborhood, and its size, bulk, and scale is appropriate to the site and neighborhood.
3. **Quality Architecture & Materials:** The development, including proposed structures and grading, is designed with quality architectural details. Proposed materials and colors will maintain the natural appearance of the ridgeline or hillside.

4. **Trees:** The proposed project, to the maximum extent feasible, preserves and protects any native or mature trees with a minimum trunk diameter of four inches (4") measured four feet (4') from the base of the trunk. Any specimen tree, skyline tree, or oak tree with a diameter of four inches (4") or more at four feet (4') above natural grade that must be removed will be replaced on a one-to-one basis, at a minimum. Designated Specimen, Historic and Landmark trees will not be removed.
5. **Health, Safety and Welfare:** The public health, safety and welfare will be protected.
6. **Good Neighbor Guidelines:** The project generally complies with the Good Neighbor Guidelines.

#### **Hillside Design District Additional Findings**

7. **Public Views:** The development, including proposed structures and grading, will preserve significant public scenic views of and from the hillside.
8. **Appropriate Grading & Natural Topography Protection:** The development, including proposed structures and grading, is appropriate to the site, is designed to avoid visible scarring, and will not significantly modify the natural topography of the site or the natural appearance of any ridgeline or hillside.
9. **Appropriate Development Scale:** The development, including proposed structures and grading, will maintain a home scale and form which blends with the hillside area by minimizing the visual appearance of structure(s) and the overall height of structure(s).

### **V. Project Piecemeal Development Issues**

#### **Background**

Currently the Municipal Code contains a rebuttable presumption (section 22.68.045.D) that the following types of development activity within the two years prior to permit application will be considered as part of the ABR review exceptions analysis:

- Grading,
- Construction of retaining walls
- Removal of trees

However, this language does not require previous construction of *square footage* be included in calculations to determine whether ABR is required under section 22.68.040B. Previous square footage additions are only considered in public hearing requirements under section 22.68.065.B. The lack of consideration for previous application square footage has the effect of allowing piecemeal development applications.

Piecemeal development is a project which occurs incrementally over a period of time. A common type of piecemeal development relates to modifications. For example, under current regulations, a design with a height greater than seventeen feet and considered a “Large Project” would not require ABR approval if the design does not meet any of the “Miscellaneous Design Criteria”. An applicant may plan to apply for a home expansion which includes expansion in an area that would require a modification. To avoid the Architectural Board of Review process, an applicant may purposely leave out the part of the application which would require the modification. In effect the applicant “phases” the project, first applying for all of the development which would not require a modification, receiving approval and building the project. In the next phase, the applicant applies for the modification. The applicant may then receive the modification without needing to undergo design review, whereas the applicant would have had to undergo design review had the modification been proposed up front with the rest of the project.

There is one existing provision for previous square footage to be considered in routing applications. If a project proposes 50% more than the 1992 home size square footage, a project over 17’ proposing a “Phase II” modification would still be subject to design review. The problem is that the Phase II project is usually a much smaller portion of the overall development. A more comprehensive Architectural Board of Review, review of an entire development, rather than just later phases of a phased development is preferable.

### **Options**

Eliminating existing miscellaneous design criteria exemptions will solve most of the problems of piecemeal development. Requiring most two-story developments to undergo design review will solve the problem of most project phasing attempts. However, the problem of project phasing could persist in the following areas:

- Subsequent modification applications
- Subsequent site work, such as terracing for a pool or additional walls
- Subsequent tree removals

For example, an applicant might apply for a two-story development project subject to design review and then later apply for a garage modification to encroach into a required setback. The garage modification might only be subject to a modification hearing, rather than both a modification hearing and a design review hearing. Similar scenarios can occur with building permits. Many serial minor building permits for site improvements, for example, could add up to a large project.

Mechanisms to prevent piecemealing might include the following:

1. **Return to Design Review:** Require Design Review for any subsequent modification application or building permit application within a certain period of time. The time period chosen might be two years to five years following a design review project approval. If the project returns to design review within that time frame, the new application would in effect be considered as part of the previous application. The entire application would require re-approval with NPO finding reconfirmation.

**Advantage:** Discourages piece-mealing the design review application.

**Disadvantage:** Could unnecessarily add small projects to the design review caseload.

2. **Special Fee:** Require a special fee, such as a double fee, for any modification or building permit application made in the specified time frame following a design review project for the same property. Requiring a special fee can be justified. For example, additional Staff time would be expended to assist in ABR review of the previous project approval to ensure NPO findings would be appropriate for the total project.

**Advantage:** Discourages piece-mealing the design review application. Avoids unnecessarily burdening ABR with small projects as in Option 1.

**Disadvantages:**

- Instances where piece-mealing a project was not deliberate within the specified time period may occur. For example, a property may change ownership, or a family size or at-home work space needs may unexpectedly increase. In these cases, applying a special fee may seem unfair. However, regardless of the reasons for piece-mealed projects, the additional work created for Staff to sort out the effects of additional proposed work as it relates to the larger project is the same.
- Applicants may simply wait for the specified time period to end and then apply for subsequent phases. In effect, the piece-meal development would simply be further spaced apart. This could be a benefit to neighbors who might otherwise experience uninterrupted construction for many years. However, it seems the majority of applicants would simply just include the entire project in the initial application rather than wait out the specified years, especially if the number of years were chosen to be five years rather than two.

**2.a. Variation: Administrative Staff Review Option.** One way to ameliorate the potential for overloading the ABR with small follow-up projects would be to require the subsequent application to be reviewed at a Administrative Staff level rather than at a full ABR board level. If Staff did not feel the NPO findings could be made for the additional project in combination with the original project, then

Staff could forward the project to the full ABR for a final decision. In this way, only the few projects which pose issues would be reviewed by the ABR.

**2.b. Variation: Modification Hearings May Be Sufficient.** Another option for at least Modification projects, is to simply rely on the Modification Hearing as an appropriate venue to gather public comments and gain Staff input regarding a new proposal on a previous reviewed property.

3. **Return to Design Review and Require a Special Fee:** Combine Options 1 and **Advantage:** Discourages piece-mealing the design review application.  
**Disadvantage:** The Option 1 component could unnecessarily add small projects to the design review caseload and the Option 2 component of higher fees may seem unfair to some applicants who did not intentionally phase their projects.

### **“Review after Final” Issues**

Once a project is submitted and approved by the ABR an applicant has the option to change the original design submitted. This process of returning for a design change after the design has been approved is termed “Review after Final” The ABR guidelines state the following:

“Review after Final occurs when there is a proposed change to a project after final approval of the project has been granted. Plans submitted should include all information on drawings, which reflect the proposed changes. If changes are not clearly delineated or shown, they cannot be construed as approved. Additional fees are charged for review after final. Any changes to a project for which “review after final” approval is requested shall be subject to a substantial conformance determination for conformance with the Preliminary Approval.”

The ABR Guidelines do not require neighbors to be noticed about the change in a design. However, Staff maintains an administrative practice of noticing significant review after final project changes. For example, re-noticing occurs for changes which would make the structure appear larger.

**Option 1: Re-noticing.** Revise ABR Guidelines to indicate neighbors will be re-noticed if an original design approval is requested to be changed, where the change in the design is “substantially larger or taller or if the project scope has been expanded.” Staff would use discretion in determining which projects would be re-noticed based on those criteria.

**Advantage**

- Allows neighbors to be noticed if a significant change is made to the original design.

**Disadvantage**

- Does not allow neighbor to be aware of slight changes which have been made to the original design approved.

**Option 2: Special for Late Grading Changes.** A common “Review After Final Change” is for applicants to add new site aspects which involve new grading. For example, review after final changes to add a swimming pool near the completion of project construction are common. These changes typically add to the total grading cubic yards of a project. It is difficult so late in the project to weigh the new grading proposals within a holistic view of the total project impacts of total site grading originally proposed by the project. In some cases, the grading added in review after final changes, may lead the project to exceed the 500 cubic yards of total grading limit which might have originally sent the project to Planning Commission if the grading had been proposed “up front”. These cases cause some frustration among Staff, as it appears the projects should have at least a complete ABR analysis and environmental review prior to project approval. To discourage additions of grading and swimming pools to projects, a special fee, or doubling of the review after final Design Review fees for these components could be implemented. Building permit fees might also be raised by about a third to provide funds for additional Staff investigative time these projects pose.

## **Attachments**

1. Existing Design Review Routing for Single Family Projects
2. Pie Charts Illustrating Project Routing
3. ABR Guidelines Excerpt Describing Hearing Review Levels
4. Built Green Checklist Summary